

measures for gear conflicts must come from one or more of the following categories:

- (1) Monitoring of a radio channel by fishing vessels.
- (2) Fixed gear location reporting and plotting requirements.
- (3) Standards of operation when gear conflict occurs.
- (4) Fixed gear marking and setting practices.
- (5) Gear restrictions for specific areas (including time and area closures).
- (6) VMS.
- (7) Restrictions on the maximum number of fishing vessels or amount of gear.
- (8) Special permitting conditions.
- (h) The measures shall be evaluated and approved by the relevant committees with oversight authority for the affected FMPs. If there is disagreement between committees, the Council may return the proposed framework adjustment to the standing or ad hoc gear conflict committee for further review and discussion.
- (i) Unless otherwise specified, after developing a framework adjustment and receiving public testimony, the Council shall make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to publish the framework adjustment as a final rule. If the Council recommends that the framework adjustment should be published as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

- (1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.
- (2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry, consistent with the Administrative Procedure Act, in the development of the Council's recommended management measures.

(3) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts.

(4) Whether there will be a continuing evaluation of management measures adopted following their promulgation as a final rule.

(j) If the Council's recommendation includes adjustments or additions to management measures, and if, after reviewing the Council's recommendation and supporting information:

(1) The Regional Administrator approves the Council's recommended management measures, the Secretary may, for good cause found pursuant to the Administrative Procedure Act, waive the requirement for a proposed rule and opportunity for public comment in the FEDERAL REGISTER. The Secretary, in doing so, shall publish only the final rule. Submission of a recommendation by the Council for a final rule does not effect the Secretary's responsibility to comply with the Administrative Procedure Act; or

(2) The Regional Administrator approves the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the action shall be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if the Regional Administrator concurs with the Council recommendation, the action shall be published as a final rule in the FEDERAL REGISTER; or

(3) The Regional Administrator does not concur, the Council shall be notified, in writing, of the reasons for the non-concurrence.

(k) Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under §305(c) of the Magnuson-Stevens Act.

§ 648.56 Scallop research.

(a) Annually, the Council and NMFS shall prepare and issue a Request for Proposals (RFP) that identifies research priorities for projects to be conducted by vessels using research set-aside as specified in §§648.53(b)(3) and 648.60(e).

(b) Proposals submitted in response to the RFP must include the following

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information, as well as any other specific information required within the RFP: A project summary that includes the project goals and objectives; the relationship of the proposed research to scallop research priorities and/or management needs; project design; participants other than the applicant, funding needs, breakdown of costs, and the vessel(s) for which authorization is requested to conduct research activities.

(c) NMFS shall make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of possession limits, utilize DAS set-aside for research, or take additional trips into Access Areas. NMFS shall provide authorization of such activities to specific vessels by letter of acknowledgment, letter of authorization, or Exempted Fishing Permit issued by the Regional Administrator, which must be kept on board the vessel.

(d) Upon completion of scallop research projects approved under this part, researchers must provide the Council and NMFS with a report of research findings, which must include: A detailed description of methods of data collection and analysis; a discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and a detailed final accounting of all funds used to conduct the sea scallop research.

§ 648.57 Sea scallop area rotation program.

(a) An area rotation program is established for the scallop fishery, which may include areas closed to scallop fishing defined in § 648.58, and/or Sea Scallop Access Areas defined in § 648.59, subject to the Sea Scallop Area Access program requirements specified in § 648.60. Areas not defined as Rotational Closed Areas, Sea Scallop Access Areas, EFH Closed Areas, or areas closed to scallop fishing under other FMPs, are open to scallop fishing as governed by the other management measures and restrictions in this part. The Council's development of area rotation programs is subject to the framework adjustment process specified in § 648.55, including the Area Rota-

tion Program factors included in § 648.55(a).

§ 648.58 Rotational Closed Areas.

(a) *Mid-Atlantic (Elephant Trunk) Closed Area.* Through February 28, 2007, no vessel may fish for scallops in, or possess or land scallops from, the area known as the Elephant Trunk Closed Area. No vessel may possess scallops in the Elephant Trunk Closed Area, unless such vessel is only transiting the area as provided in paragraph (b) of this section. The Elephant Trunk Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
ET1	38°50' N.	74°20' W.
ET2	38°10' N.	74°20' W.
ET3	38°10' N.	73°30' W.
ET4	38°50' N.	73°30' W.
ET1	38°50' N.	74°20' W.

(b) *Transiting.* No vessel possessing scallops may enter or be in the area(s) specified in paragraph (a) of this section unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

§ 648.59 Sea Scallop Access Areas.

(a) *Hudson Canyon Sea Scallop Access Area.* (1) Through February 28, 2006, vessels issued limited access scallop permits may not fish for scallops in, or possess or land scallops from, the area known as the Hudson Canyon Sea Scallop Access Area, described in paragraph (a)(2) of this section, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60. Limited access scallop vessels may not possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is participating in, and complies with the requirement of, the area access